

March 27, 2018

Mr. Timothy R. Hess
Whitman, Requardt and Associates, LLP
801 South Caroline Street
Baltimore, Maryland 21231

RE: St. Paul's School for Girls,
Septic Disposal System Replacement
Forest Conservation Variance
Tracking # 02-18-2660

Dear Mr. Hess:

A request for a variance from Article 33, Title 6, Baltimore County's Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (EPS) on February 21, 2018. Included in the packet were a forest stand delineation and forest conservation plan that will be addressed under a separate correspondence. The variance request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on a 1.9-acre limit of disturbance (LOD) rather than the entire 36.8-acre school parcel. It is acknowledged that the LOD is temporary in nature and that the project is a result of collaborating with Ground Water Management staff of this Department to make long-lasting repairs and treatment improvements to the current septic disposal system. The applicant proposes to address the resultant, approximately 0.4-acre afforestation requirement via a fee-in-lieu payment of \$8,277.00 into Baltimore County's Forest Conservation Fund.

This variance also seeks approval to impact the critical root zones of four specimen tree White pines (*Pinus strobus*) for the installation of a four inch PVC force main and electrical conduit to serve the low-pressure dosing septic disposal system upgrade. The specimen trees are native, in good condition and appear to have been planted as landscape trees due to their clustered associations. The existence of numerous athletic fields, structures and steep slopes greatly limited designs that would avoid or further minimize impacts. The applicant proposes to root prune and install high-visibility protective fencing (HVF) along the LOD to minimize impacts to the specimen trees.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the three criteria under Subsection 33-6-116 (d)

must be met, and all three (3) of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to make improvements to an existing septic disposal system that serve educational facilities at a school that existed well prior to the effective date of the Forest Conservation Law. Full application of the law to the entire parcel would result in an unwarranted hardship to the applicant, but it would not deprive the applicant of all beneficial use of the property. Therefore, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The relocation and reconstruction of the septic disposal system, as proposed, is due to unique circumstances associated with providing adequate and modernized utilities on the school property rather than the general conditions in the neighborhood. Therefore, we find that this criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Only 1.9-acres of the 36.8-acre school parcel is proposed for utility improvements in association with this variance request. Furthermore, the reconstruction efforts will not result in a change in use of the property. Therefore, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. Onsite stream and wetland resources are far-removed from the LOD. Additionally, the modernized low pressure dosing septic disposal system will provide denitrification and will have a much greater separation from the groundwater table. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The petitioner has not taken any actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Reducing the planting obligation

based on the limit of disturbance (LOD) for a septic disposal system upgrade on the existing campus and permitting the impacting of four specimen trees while accepting a fee-in-lieu of mitigation for the LOD and requiring that the trees be root pruned and protected with HVF would be consistent with the spirit and intent the Forest Conservation Law. Therefore, this criterion has been met.

Based upon our review, this Department finds that all of the above criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. This project's afforestation obligation may be addressed by either paying an \$8,277.00 fee-in-lieu, as proposed OR by purchasing 0.4-acre of credit in an EPS-approved forest retention bank. A bank authorization letter, which shall serve as the instrument of agreement with the bank's representative, has been enclosed for your client's use, should the latter option be chosen. The signed bank letter shall be returned to this office indicating that retention bank credit has been purchased or the fee in lieu paid to EPS prior to issuance of any grading permit.
2. Blaze orange high visibility fence (HVF) shall be installed along the limit of disturbance (LOD) wherever the LOD is within 50 feet of any specimen tree to remain and any FBE. This protective HVF shall be illustrated on the plan view and mentioned in the sequence of operations on the sediment control plan and the final forest conservation plan (FCP). Installation of this fence shall be inspected and approved by EPS staff prior to issuance of any grading or building permit
3. A final forest conservation plan (FCP) must be submitted, and approved by EPS prior to issuance of any permits. On the final FCP, please provide a note indicating how forest conservation was met.
4. This variance applies solely to the septic disposal system upgrades and does not exempt future construction activities on this site from complying with Baltimore County's Forest Conservation Law. Furthermore, a special variance to the Forest Conservation Law may be required for future removal of any specimen trees shown to remain on the grading plan and FCP.
5. The following note must appear on all subsequent plans for this renovation project stating:

"A special variance was granted on March 27, 2018 to Baltimore County's Forest Conservation Law to apply the requirements to the septic disposal system replacement's limit of disturbance as opposed to the net tract acreage.

Mr. Timothy R. Hess
St. Paul's School for Girls, Septic Disposal System Replacement
Forest Conservation Variance
March 27, 2018
Page 4

Conditions were placed on this variance, including protecting the existing specimen trees and providing for 0.4 acre of afforestation or paying a specimen tree fee-in-lieu of \$8,277.00 into Baltimore County's Forest Conservation fund."

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please have the appropriate school representative sign the statement below and return a signed copy of this entire letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Michael Kulis at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/msk

Enclosure

C. Marian Honeczy, Maryland DNR

I/we agree to the conditions enumerated in this approval letter to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

School Representative

Date

Printed Name

StPaulsSchoolforGirlsSepticDisposalReplacementFCVAok3-22-18.docx/Mike